

## Message Text

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ORIGIN L-03

INFO OCT-01 EA-07 ISO-00 PM-04 CIAE-00 H-01 INR-07 NSAE-00  
NSC-05 PA-01 PRS-01 SP-02 SS-15 USIA-06 MC-02 IGA-02  
AID-05 OMB-01 TRSE-00 EB-08 COME-00 /071 R

DRAFTED BY L/PM:TBOREK-PM/SAS:RJSLOTT  
APPROVED BY PM/SAS - SWINSHIP  
L/PM - JMICHEL  
DOD/DSAA - LBRIESKE  
EA/IMS - WSHEPARD

-----082127Z 100877 /64

P 081947Z FEB 77  
FM SECSTATE WASHDC  
TO AMEMBASSY KUALA LUMPUR PRIORITY  
INFO SECDEF PRIORITY  
CINCPAC PRIORITY

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E.O. 11652: N/A

TAGS: MASS, MY

SUBJECT: THIRD PARTY TRANSFER AGREEMENT RE IMET TRAINING

REF: A) STATE 196640 B) KUALA LUMPUR 4698  
C) USDAO KUALA LUMPUR 0024, 100305Z JAN 77  
D) USDAO KUALA LUMPUR 0084, 280217Z JAN 77

1. DEPT APPRECIATES RESERVATIONS EXPRESSED REFTEL B CONCERNING APPROACHING GOM REGARDING AGREEMENT ON TRANSFERS OF TRAINING OBTAINED FROM USG. NEVERTHELESS, AS POINTED OUT REFTEL A, SECTION 505(A) OF FOREIGN ASSISTANCE ACT OF 1961 HAS BEEN AMENDED TO REQUIRE SUCH AGREEMENT AS CONDITION OF ELIGIBILITY FOR TRAINING RELATED TO DEFENSE ARTICLES. CONSEQUENTLY THERE IS NO CHOICE BUT TO SEEK AND OBTAIN  
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THAT AGREEMENT BEFORE SUCH TRAINING MAY BE FUNDED.

2. UNTIL NOW THIS NEW REQUIREMENT HAS NOT POSED IMMEDIATE PROBLEM WITH RESPECT TO MALAYSIAN IMET PROGRAM, AS TRAINING COURSES PROVIDED THUS FAR IN FY 1977 HAVE BEEN DEMONSTRABLY NOT RELATED TO DEFENSE ARTICLES. THUS, WHILE WE ARE SEEKING AGREEMENT WHICH REFERS TO "TRAINING" WITH-

OUT QUALIFIER FOR STRONG POLICY AND LEGAL REASONS OUT-  
LINED REFTTEL A, WE HAVE NOT HAD TO PRESS ISSUE WITH GOM.  
THERE ARE, HOWEVER, AT LEAST FOUR COURSES CLEARLY RELATED  
TO DEFENSE ARTICLES NOW PROGRAMMED FOR GOM IN REMAINDER

OF FY 1977. THE FIRST OF THESE, ELECTRONICS INSTRUMENT  
REPAIR COURSE (WSCN NO. 5010), IS SCHEDULED TO BEGIN ON  
FEBRUARY 11. ACCORDINGLY, REQUIRED AGREEMENT MUST BE  
OBTAINED IF WE ARE TO FURNISH THIS COURSE AS PLANNED.  
(OTHER COURSES RELATED TO DEFENSE ARTICLES ARE: A) AIR  
FRAME REPAIR SPECIALIST COURSE (WSCN NO. 0065), B) AIR  
FRAME REPAIR ON-THE-JOB TRAINING (WSCN NO. 0066B), AND  
C) STRUCTURAL REPAIR/HIGH PERFORMANCE AIRCRAFT (WSCN NO.  
0066A).

3. EMBASSY SUGGESTION (PARA 3 REF B) THAT WE OBTAIN  
REQUISITE AGREEMENT THROUGH "SIDE LETTERS" ON COURSE-BY-  
COURSE BASIS, WHILE INITIALLY ATTRACTIVE, IS LIKELY TO  
GIVE RISE TO SERIOUS DIFFICULTIES LATER ON AND FOR THAT  
REASON WE CANNOT CONCUR. FOR ONE THING, IN A FORM WE  
COULD ACCEPT SUCH AN AGREEMENT WOULD SEEM TO RAISE SAME  
POLITICAL PROBLEMS AND IT APPEARS TO US BETTER TO DO THIS  
ONCE RATHER THAN SEVERAL TIMES. FOR ANOTHER, SUGGESTED  
APPROACH IS ALMOST CERTAIN TO OCCASION THOSE DIFFICULTIES  
WHICH WE HOPE TO AVOID BY OBTAINING AGREEMENT REFERRING  
TO "TRAINING" WITHOUT QUALIFICATION, E.G. DISPUTES OVER  
WHETHER A PARTICULAR COURSE IS EQUIPMENT-RELATED OR NOT.  
LASTLY, MULTIPLE "AD HOC" AGREEMENTS ARE LIKELY TO COM-  
PLICATE UNNECESSARILY ADMINISTRATION OF IMET PROGRAM.  
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4. CONTRARY TO EMBASSY IMPRESSION PARA 2 REFTTEL B, ARMS  
EXPORT CONTROL ACT HAS ALSO BEEN AMENDED TO REQUIRE  
SUBSTANTIALLY SAME ASSURANCES FROM FMS PURCHASER CONCERN-  
ING TRANSFER TO THIRD PARTIES OF FMS-ORIGIN TRAINING.  
BECAUSE OF EXISTING LANGUAGE RELATING TO SECURITY AND  
TRANSFER OF INFORMATION IN STANDARD FORM SALES CONTRACT  
(DD1513) WE HAVE NOT BEEN FACED WITH SAME ISSUE IN GETTING  
AGREEMENT RE FMS AS WE ARE RE IMET. NEVERTHELESS,  
RECIPIENT RELUCTANCE TO ACCEPT SUBSTANCE OF REQUIRED  
AGREEMENT WITH RESPECT TO GRANT TRAINING UNDER IMET  
POSES SERIOUS QUESTION OF WHETHER RECIPIENT PREPARED TO  
ACCEPT ANALOGOUS REQUIREMENTS WITH RESPECT TO TRAINING  
PURCHASED UNDER FMS. ACCORDINGLY, IF GOM WISHES TO ACQUIRE  
PROGRAMMED TRAINING CITED PARA 2 ABOVE ON FMS CASH, RATHER  
THE IMET GRANT BASIS, WE WOULD BE PREPARED TO RELY ON  
STIPULATIONS IN FMS CONTRACT AS SATISFYING NEW STATUTORY  
REQUIREMENTS APPLICABLE TO FMS PROVIDED THAT GOM EXPRESSLY  
MADE AWARE THAT THOSE STIPULATIONS PRECLUDE, INTER ALIA,

TRANSFER OF SUCH TRAINING TO THIRD PARTIES WITHOUT PRIOR  
USG CONSENT. PRINCIPAL ADVANTAGE TO THIS APPROACH IS THAT  
EXCHANGE OF NOTES REQUIRED FOR IMET COULD BE DEFERRED.  
OBVIOUS DISADVANTAGE IS THAT PROGRAMMED TRAINING WOULD NO

LONGER BE ON GRANT BASIS AND REQUIRED ASSURANCES COULD IN  
ANY CASE NOT BE AVOIDED. IF FMS ROUTE IS CHOSEN, COST OF  
TRAINING, EXCLUSIVE OF TRANSPORTATION AND LIVING COSTS,  
WOULD BE APPROXIMATELY AS FOLLOWS: A) WSCN NO. 5010 -  
\$5,420; B) WSCN NO. 0065 - \$4,260, C) WSCN NO. 0066B -  
\$880 AND D) WSCN NO. 0066A - \$2,180.

5. REGARDLESS OF WHETHER TRAINING IS OF IMET OR FMS  
ORIGIN, NEED FOR RECIPIENT TO BE MADE AWARE OF, AND TO,  
AGREE TO, NEW RESTRICTIONS ON TRANSFER OF TRAINING IS MOST  
IMPORTANT. APART FROM OUR GENERAL OBLIGATION TO SEE TO IT  
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THAT SECURITY ASSISTANCE PROGRAMS ARE CARRIED OUT IN  
ACCORDANCE WITH LAW AND POLICY, BOTH FOREIGN ASSISTANCE  
ACT (IMET) AND ARMS EXPORT CONTROL ACT (FMS) HAVE BEEN  
AMENDED TO REQUIRE THAT WE REPORT "IMMEDIATELY" TO THE  
CONGRESS WHEN INFORMATION IS RECEIVED THAT "ANY DEFENSE  
ARTICLE, OR RELATED TRAINING OR OTHER SERVICE" HAS BEEN  
TRANSFERRED WITHOUT PRIOR USG CONSENT. MOREOVER, ANY  
SUCH TRANSFER IN "SUBSTANTIAL VIOLATION" OF APPLICABLE  
AGREEMENT RENDERS RECIPIENT SUBJECT TO TERMINATION OF  
ELIGIBILITY THROUGH PRESIDENTIAL DETERMINATION OR BY  
JOINT RESOLUTION OF THE CONGRESS. ACCORDINGLY, IT IS  
EXTREMELY IMPORTANT THAT RESTRICTIONS REQUIRED TO BE  
AGREED UPON BY LAW ARE BOTH FULLY UNDERSTOOD AND FULLY  
OBSERVED BY ALL RECIPIENTS SO AS TO AVOID POTENTIALLY  
SERIOUS MISUNDERSTANDINGS.

6. WE UNDERSTAND THAT THESE ASSURANCES MAY POSE A PROBLEM  
FOR THE GOM, GIVEN THEIR DESIRE FOR AN ARM'S LENGTH  
POSTURE WITH THE US AND OTHER GREAT POWERS. EMBASSY  
MAY THEREFORE WISH TO POINT OUT THAT NO DEFENSE ASSISTANCE  
RELATIONSHIP IS INTENDED OR TO BE INFERRED FROM THESE  
ASSURANCES. MOREOVER, SECTION 650 OF THE FOREIGN  
ASSISTANCE ACT OF 1961, AS AMENDED, PROVIDES THAT THE  
FURNISHING OF ASSISTANCE UNDER THAT ACT SHALL NOT BE  
CONSTRUED AS QUOTE CREATING A NEW COMMITMENT OR AS  
AFFECTING ANY EXISTING COMMITMENT END QUOTE TO USE US  
ARMED FORCES FOR THE DEFENSE OF ANY FOREIGN COUNTRY. TO  
THE CONTRARY, THESE ASSURANCES ARE ONLY INTENDED TO  
PRECLUDE UNAUTHORIZED THIRD PARTY TRANSFERS OF TRAINING  
INFORMATION. THEY RESEMBLE SIMILAR ASSURANCES REGARDING  
THIRD PARTY TRANSFERS THAT HAVE ALWAYS BEEN REQUIRED IN

RESPECT OF DEFENSE ARTICLES FURNISHED THROUGH FMS AND  
MAP. THEY HAVE WORLDWIDE APPLICABILITY AND WE ARE  
REQUIRED BY LAW TO OBTAIN THEM.

7. RE PARA 4, REFTEL D, CERTIFICATE CITED WHICH IS SIGNED  
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BY GOM DIRECTOR OF MILITARY INTELLIGENCE REFERS TO  
TRANSFER OF CLASSIFIED INFORMATION ONLY AND NOT TO  
TRANSFER OF OTHER INFORMATION OR OF TRAINING ITSELF.  
THEREFORE, THESE CERTIFICATES WILL NOT MEET LEGISLATIVE  
REQUIREMENT.  
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## Message Attributes

**Automatic Decaptioning:** X  
**Capture Date:** 01-Jan-1994 12:00:00 am  
**Channel Indicators:** n/a  
**Current Classification:** UNCLASSIFIED  
**Concepts:** MILITARY TRAINING, EDUCATION, MILITARY ASSISTANCE, MILITARY PLANS  
**Control Number:** n/a  
**Copy:** SINGLE  
**Sent Date:** 08-Feb-1977 12:00:00 am  
**Decaption Date:** 01-Jan-1960 12:00:00 am  
**Decaption Note:**  
**Disposition Action:** RELEASED  
**Disposition Approved on Date:**  
**Disposition Case Number:** n/a  
**Disposition Comment:** 25 YEAR REVIEW  
**Disposition Date:** 22 May 2009  
**Disposition Event:**  
**Disposition History:** n/a  
**Disposition Reason:**  
**Disposition Remarks:**  
**Document Number:** 1977STATE028177  
**Document Source:** CORE  
**Document Unique ID:** 00  
**Drafter:** PM/SAS:RJSLOTT  
**Enclosure:** n/a  
**Executive Order:** N/A  
**Errors:** N/A  
**Expiration:**  
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**Litigation History:**  
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**Office:** ORIGIN L  
**Original Classification:** LIMITED OFFICIAL USE  
**Original Handling Restrictions:** n/a  
**Original Previous Classification:** n/a  
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**Previous Classification:** LIMITED OFFICIAL USE  
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**Reference:** 77 STATE 196640, 77 KUALA LUMPUR 4698  
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**Review Content Flags:**  
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**Review Withdrawn Fields:** n/a  
**SAS ID:** 3377080  
**Secure:** OPEN  
**Status:** NATIVE  
**Subject:** THIRD PARTY TRANSFER AGREEMENT RE IMET TRAINING  
**TAGS:** MASS, MY  
**To:** KUALA LUMPUR  
**Type:** TE  
**vdkgvwkey:** odbc://SAS/SAS.dbo.SAS\_Docs/51b1acc9-c288-dd11-92da-001cc4696bcc  
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Margaret P. Grafeld  
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